

FX MORTGAGE LOANS STATUS REVIEW

BNP Paribas Bank Polska SA Group

Warsaw, 17/06/2021



BNP PARIBAS

OVERVIEW

KEY MILESTONE BEFORE MAKING ANY DECISION : SUPREME COURT RESOLUTION, EXPECTED ON 11 MAY 2021, POSTPONED AGAIN WITHOUT ANY TIME LIMIT

As a consequence of an increasing risk among the banking sector,

- In the continuity of the Court of Justice of the European Union judgments followed by national courts, Banks have been facing with a continuous increase in the number of new claims and unfavorable judgements. As for BNP Paribas Bank Polska more specifically, number of new claims raised as from mid-Q4 2020. If the share of unfavorable judgements is increasing, the ratio of favorable judgments is better in second instance than in first instance.

KNF has been promoting Voluntary program to solve FX mortgage loans issues.

- As a consequence, Chairman of KNF has been promoting the implementation of the Voluntary conversion program among the banking sector. Working Groups have been created under the leadership of PKO BP and the Bank has structured a dedicated project team. The concept is to compare CHF mortgages loans with a similar denominated PLN loans and compensate the CHF debtors for losses they have incurred relative to PLN borrowers. Some aspects of the program are still requiring additional clarification (ie : tax deductibility of conversion cost, impact on RWA calculation). On 9 February 2021, the Management Board of the National Bank of Poland stated that the potential involvement of NBP may be considered in the process of FX loans conversion provided that lenders meet certain conditions. Involvement of NBP would be crucial to avoid zloty depreciation. On 23 April 2021, PKO BP shareholders approved the creation of a dedicated fund aiming at covering the costs of the settlements with their customers. The bank recently conducted a customer survey which has confirmed the attractiveness of such solution for the customers and is currently performing testing phase.

Some topics have been recently clarified by CJEU and Supreme Court but the main resolution has not been issued

- From the legal perspective, BNPP BP is preparing the first lawsuit for remuneration for the usage of capital. TSUE verdicts issued on April 29th clarified that agreements invalidity is not the aim of the Directive 93/13. On May 7th, Supreme Court confirms that Bank's claims for Capital return is generally not time-bared, and did not exclude the additional Bank's claims.
- However, the next key milestone remains the Judgment of the Supreme Court regarding 6 crucial questions. The outcome of the resolution is uncertain as the date of the resolution is postponed again.

As a result, level of provisioning and attractiveness of VP will be influenced

- The recent verdicts have to be analyzed and might impact the decisions of the common Courts as well as influence the customers and the lawyers. In parallel, the cost of the voluntary program has been estimated to PLN 0.7 bn for denominated loans portfolio and PLN 1.3 bn for the whole portfolio. In the continuity of the Supreme Court judgement, the parameters used for the calculation of the legal proceedings will have to be observed and recalibrated if necessary, costs of the various scenarios adjusted and evolution of the open subjects will have to be monitored.

In such context, we recommend not to take any decisions before the issuance of the Supreme Court Resolution

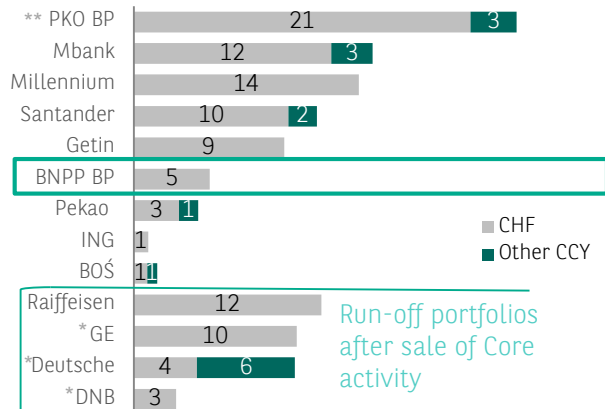
- Taking into consideration the uncertainty related to the postponement of the Supreme Court Resolution planned on 11 May 2021, the potential impacts of the recent judgments and the needs of further clarifications, we are recommending not to take any decision now.

OVERALL, BANKS KEPT ON INCREASING THE COVERAGE RATIO

CONTINUOUS UPWARD TREND OF NEW LAWSUITS AGAINST BANKS

FX mortgage loans exposures

(ASSETS Q1 2021, BN PLN)

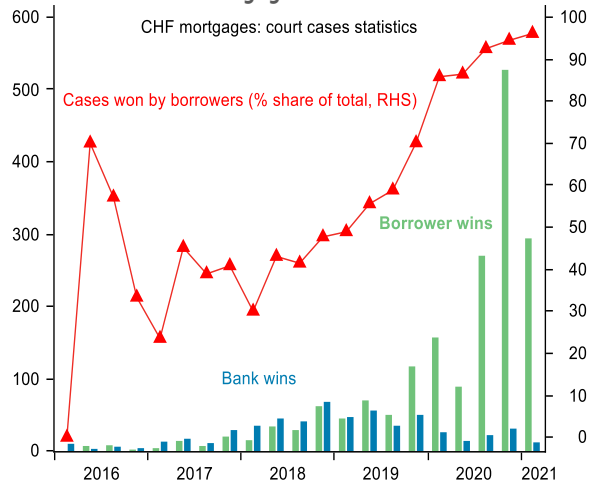


* 2019

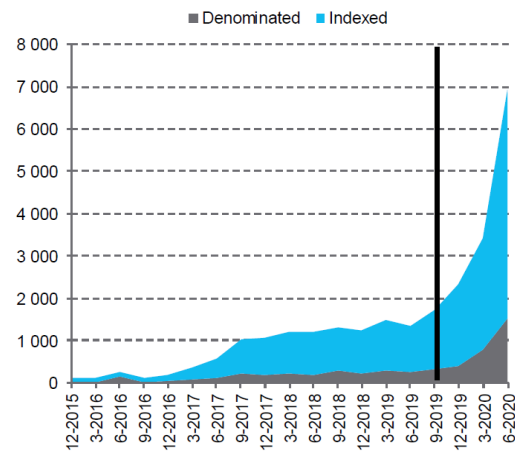
** Q4 2020

CHF Mortgage loans statistics

CHF mortgages: court cases statistics



Quarterly number of new lawsuits

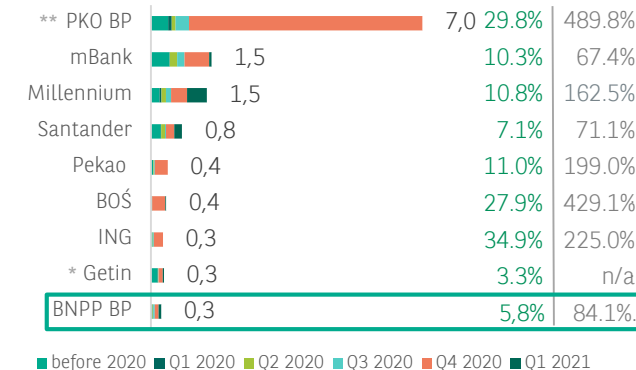


Quarterly figures

Source : NBP, Bankowebezprawie.pl, Macrobond, BNP Paribas

Provisions

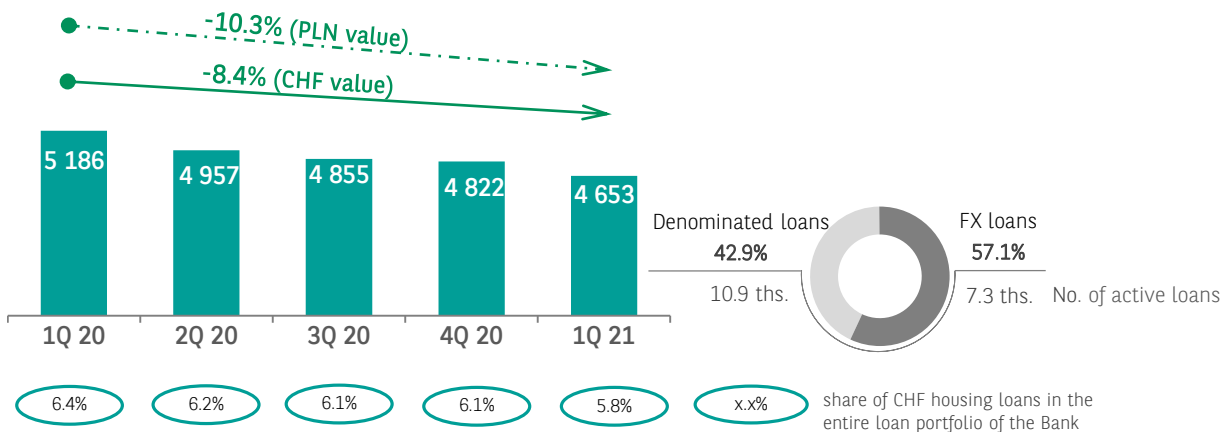
(Q1 2021, BN PLN)



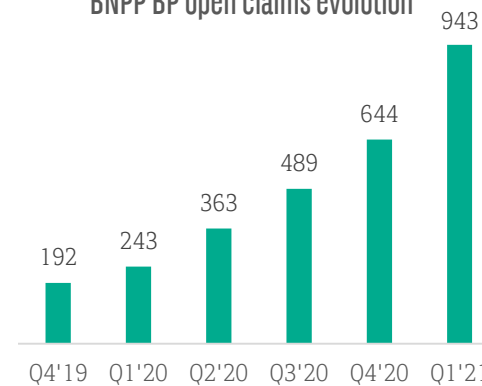
* Only CHF exposures disclosed

** Q4 2020

Gross mortgage loans (CHF)

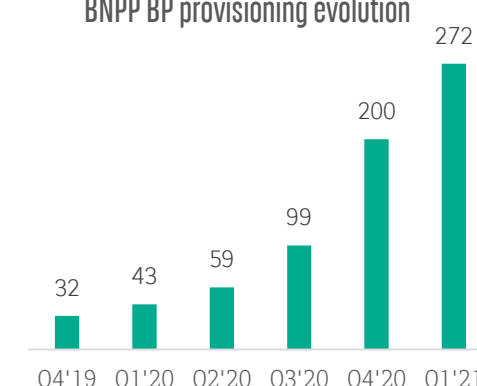


BNPP BP open claims evolution



Quarterly figures

BNPP BP provisioning evolution



Quarterly figures

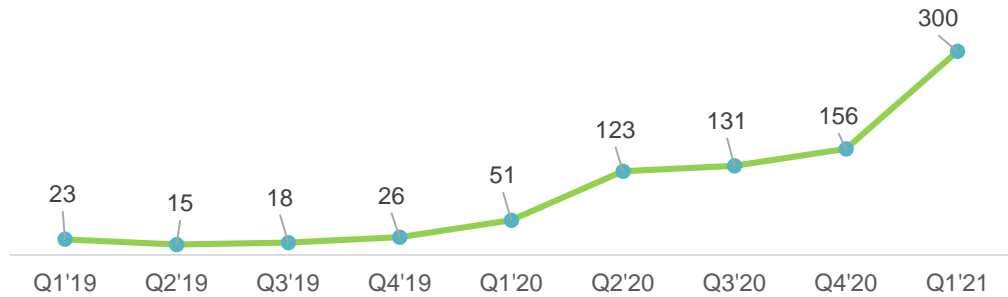


TREND IN NUMBER OF NEW COURT CASES IS UPWARD. HOWEVER, TOTAL NUMBER OF CLAIMS REMAINS LOW

INCREASE IN NEW COURT CASES. JUDGEMENT IN SECOND INSTANCE STILL MORE FAVORABLE FOR THE BANK

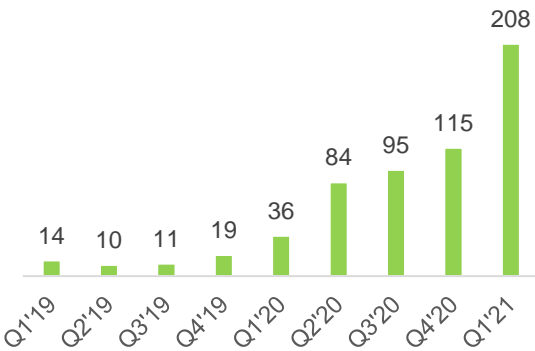
Total new Court cases evolution by quarter

Quarterly figures as from Q1 2019



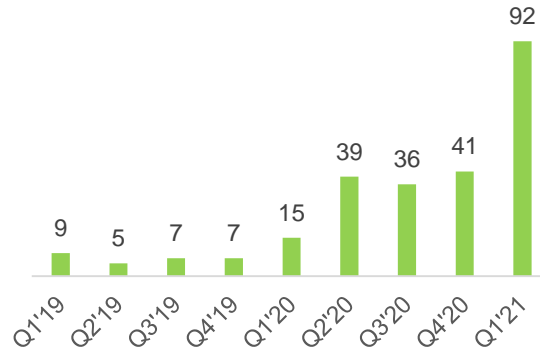
Denominated loans Court Cases evolution

Quarterly figures as from Q12019



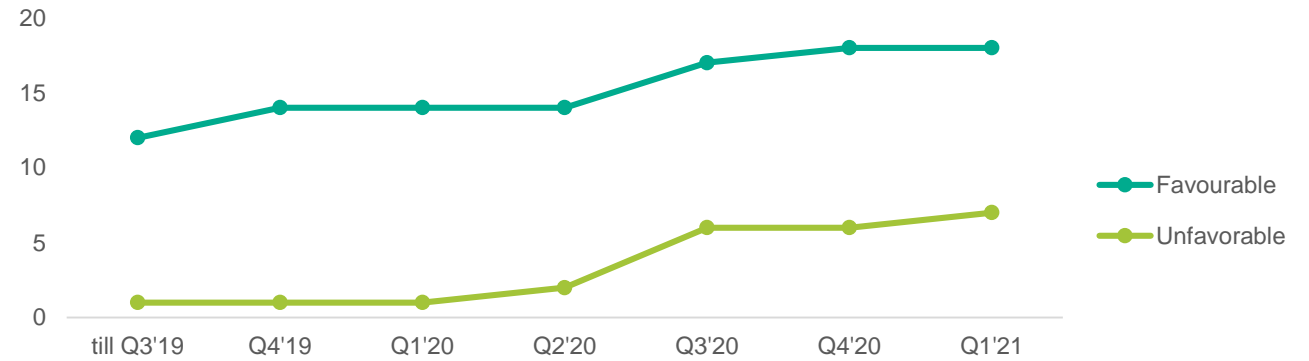
FX loans Court cases evolution

Quarterly figures as from Q12019



Total judgements evolution

Quarterly figures as from end of Q3 2019



✓ Ratio of favorable judgments in second instance: 33% for denominated loans and 67% for FX loans (after TSUE)

VOLUNTARY CONVERSION PROGRAM IS STILL BEING ANALYZED. THE OUTCOME OF THE RECENT TSUE JUDGEMENT AND SUPREME COURT RESOLUTION ISSUED ON 7 MAY 2021 IS PERCEIVED AS POSITIVE

PFSA's Chairman proposal

- In December 2020, the Chairman of the Financial Supervision Authority put out a proposal of voluntary conversion of CHF denominated mortgages loans into PLN loans as CHF mortgages loans is remaining a systemic risk for the banking sector.
- The PFSA's Chairman proposal is to compare CHF mortgages loans with a similar denominated PLN loans based on 3M WIBOR rate increased by a margin used historically for this type of loans and compensate CHF debtors for losses they have incurred relative to PLN borrowers.
- According to our estimates, the potential cost of the conversion program for BNPP Polska would be:
 - PLN 0.7 bn for denominated loans
 - PLN 1.3 bn for the whole portfolio (denominated and FX loans)
- On 9 February 2021, the Management Board of the National Bank of Poland stated that the potential involvement of NBP may be considered in the process of FX loans conversion into zloty by domestic banks, based on market principles and executed in line with market exchange rates, provided that lenders meet certain conditions
- Bank is currently analyzing the impact resulting from the recent Supreme Court resolution in the continuity of TSUE judgment issued on April 29th. Also the postponement of issuance the resolution of Supreme Court's Full Civil Chamber makes the assessment more complicated. In parallel, the Bank conducted a customer survey about the conversion program which has confirmed the attractive of such program for a majority of the customers if it would be offered and is performing tests with few of them, additionally preparing the legal analysis about the program and the potential further process.

Positive outcome resulting from TSUE verdict issued on April 29th and S.C. resolution issued on 7th of May

- CJEU has emphasized that invalidity is not the aim of Directive 93/13 and cannot depend on the will and interests of the consumer, the courts should first of all restore the balance between the parties, and only if it is impossible, the contract may be deemed null and void. It is also for the national courts to determine in each case whether a given clause is abusive (illegal) or not. The latter depends always on the circumstances of each case individually.
- CJEU did not rule on whether or not the bank was entitled to restitution claims (for capital reimbursement and capital costs), but has mentioned that "invalidation may constitute restitution claims".
- Supreme Court confirmed that Change form credit to „donation“ is excluded - the Bank may seek the return of the paid-out capital, and its claims are generally not time-barred
- Supreme Court confirmed that if an agreement is invalid, each of the parties has the right to a claim for the reimbursement of the benefit provided by that party (the so-called two-conditions theory) however did not prejudge that every indexed or denominated loan agreement shall be invalidated
- The full impact of Supreme Court resolution issued on May 7, 2021 on Bank and provisioning may be assessed once the written justification is published.

HOWEVER, THE KEY RESOLUTION HAS BEEN POSTPONED AGAIN

The key resolution of Supreme Court's Full Civil Chamber was again postponed on May 11, 2021 without any time limit

- On 21 January 2021, the First President of the Supreme Court submitted a motion for adopting a resolution answering a set of questions, in particular covering the following topics :
 - ⇒ If the conversion clause is deemed abusive what should be the consequence: (i) the contract can be supplemented with other provisions instead of abusive clause, (ii) the agreement should be binding in the remaining scope without any supplements, or (iii) it will fall and require cancellation ?
 - ⇒ If the contract is ineffective how the court should settle the mutual payments: (i) whether it should consider only the borrower's separate claim regardless of the bank's claim (the so-called theory of two conditions) or should it set off both claims and grant the borrower only the difference between the borrower's claim and the bank's claim (if such a difference exists) or dismiss the claim if the borrower's claim is lower than the bank's claim (so-called balance theory) ?
 - ⇒ How should the limitation period for a bank's claim for capital return be calculated ?
 - ⇒ Is it possible to demand remuneration for the use of funds by the other party in the event of invalidity or ineffectiveness ?
- On 11 May 2021, the issuance of the resolution was again postponed without any time limit, as the Supreme Court decided to gather additional opinions from Commissioner for Human Rights (Ombudsman), Children's Ombudsman, Chairman of The Polish Financial Supervisory Authority, President of the National Bank of Poland and Financial Ombudsman.
- In the continuity of the Supreme Court's resolution once it will be taken, the Bank will analyze the content of the resolution and the potential impacts on the jurisprudence, review the parameters used in the calculation of the legal risk provisioning and assess the opportunity to offer the voluntary program to the borrowers.